IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

OP.No. 21018 of 2000(B)

PETITIONER:

E.V.SOSAMMA, KATTASSERY VEEDU,
P.O.THOPPUMPADY, COCHIN -5.

BY ADV. SRI P.T.DINESH
SMT.SUSMITHA P.MALLAYA

RESPONDENTS:

1.THE MANAGER, ST.JOHN DE BRITO'S ANGLO INDIAN
H.S. FORTCOCHIN.

2.THE STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, EDUCATION DEPT.,
GOVT.SECRETARIAT, THIRUVANANANTHAPURAM.

BY ADV. SRI.N.JAMES KOSHY
GOVT.PLEADER SRI.K.V.MANOJKUMAR.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON C.M.P.NO.35218/2000 IN O.P.NO.21018/2000

DISMISSED

30.11.2007. SD/- KURIAN JOSEPH, JUDGE.

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF ORDER NO.Y4/91335/98/DPI DT. 26.2.99.

EXT.P2 : TRUE COPY OF THE REVISION FILED BY THE PETITITONER BEFORE THE GOVERNMENT DT. 7.4.1999.

EXT.P3 : TRUE COPY OF ORDER NO.G.O.(RT) NO.2405/G.EDN./2000 DT. 13.6.2000.

RESPONDENTS' EXHIBITS :

EXT.R1A TRUE COPY OF THE LETTER DT. 28.12.1983.

KURIAN JOSEPH, J.

O.P.NO.21018 OF 2000

Dated 30th November, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "Issue a writ of mandamus or other appropriate writ or order directing the respondents to pay the salary and other service benefits due to the petitioner during the period from 16.7.83 to 2.6.85 forthwith"

It is seen from the impugned order that there was no post available to accommodate the petitioner under the first respondent during the relevant period. That aspect is not disputed also by the petitioner, as can be seen from her own letter, Ext.R1(a). Learned counsel for the petitioner vehemently contended that there was no due termination of her service. If there is no due termination of the petitioner, it is a matter for her to independently pursue against the Manager. Without prejudice to such liberty, this writ petition is dismissed. In case the petitioner pursues the remedy before the civil court, the time taken for prosecuting this writ petition shall stand excluded while computing the period of limitation.

KURIAN JOSEPH, JUDGE.

tgs

KURIAN JOSEPH, J

O.P.NO.21018 OF 2000

J U D G M E N T

Dated 30th November, 2007.